THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No.7832 of 2006

DATED: 20.4.2006

Between:

K.Dattaiah petitioner

and

The Divisional Manager,

APSRTC, Secunderabad and another respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No.7832 of 2006

ORAL ORDER:

This writ petition is filed seeking Writ of Mandamus declaring the action of the respondents in passing the impugned order dated 20.08.2005 passed by the third respondent imposing punishment of deferment of annual increment for a period of

two years with cumulative effect.

The petitioner is working as Conductor in the respondents Corporation. While so, on an allegation of assault on one Mr.T.Sathi Reddy, Driver, a charge sheet dated 15.12.2004 was issued to him. He submitted his explanation denying the charges levelled against him. However, without considering the same, and without conducting any departmental enquiry, the impugned final orders were passed imposing punishment of deferment of annual increment for a period of two years with cumulative effect. Hence, the present writ petition questioning the action of the respondents in imposing major punishment without conducting departmental enquiry.

Learned counsel for petitioner contends that punishment of deferment of annual increment for a period of two years with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC & A) Regulations. In support of his contention, he placed reliance on judgment of the Supreme Court in ***KULWANTH SINGH GILL Vs. STATE OF PUNJAB***. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No.20609 of 1999, dated 07.12.2005, which is in a similar background of facts and circumstances.

Heard the learned counsel for petitioner and learned Standing Counsel for respondents Corporation. Both counsel submitted that the matter is squarely covered by orders of this Court in W.P. No.20609 of 1999.

It is an admitted fact that the third respondent imposed punishment of deferment of annual increment for a period of two years with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in ***KULWANTH SINGH GILL'S CASE*** (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry, which is violative of the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside

leaving it open to the third respondent to pass fresh orders. But to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel agreed that instead of remitting the matter to the third respondent for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of annual increment for a period of two years without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 20.08.2005 passed by the third respondent imposing the punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment for a period of two years without cumulative effect. The petitioner shall not be entitled to any monetary benefit arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 20.04.2006

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